

BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
1600 WACHOVIA CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WWW.BROOKSPIERCE.COM

L.P. McLENDON, JR.
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. MCNAIRY
EDWARD C. WINSLOW III
HOWARD L. WILLIAMS
GEORGE W. HOUSE
WILLIAM P.H. CARY
REID L. PHILLIPS
ROBERT A. SINGER
JOHN H. SMALL
RANDALL A. UNDERWOOD
S. LEIGH RODENBOUGH IV
MARK J. PRAK
JILL R. WILSON
MARC D. BISHOP
JIM W. PHILLIPS, JR.
MACK SPERLING
JEFFREY E. OLEYNIK
MARK DAVIDSON
JOHN W. ORMAND III
ROBERT J. KING III
V. RANDALL TINSLEY
S. KYLE WOOSLEY
FORREST W. CAMPBELL, JR.
MARCUS W. TRATHEN
JEAN C. BROOKS
JAMES C. ADAMS II
ALLISON M. GRIMM
ELIZABETH S. BREWINGTON
H. ARTHUR BOLICK II
J. EDWIN TURLINGTON
JOHN M. CROSS, JR.

JENNIFER K. VAN ZANT
KATHLEEN M. THORNTON
DAVID W. SAR
BRIAN J. McMILLAN
NATALIE KAY SANDERS
DAVID KUSHNER
DEREK J. ALLEN
CLINTON R. PINYAN
TERESA DELOATCH BRYANT
ELIZABETH V. LAFOLLETTE
GINGER S. SHIELDS
COE W. RAMSEY
ROBERT W. SAUNDERS
JENNIFER T. HARROD
CHARLES E. COBLE
JOHN M. DEANGELIS
KATHRYN V. PURDOM
STEPHEN G. HARTZELL
JESSICA M. MARLIES
ANDREW J. HAILE
CHARLES F. MARSHALL III
PATRICK J. JOHNSON
J. BENJAMIN DAVIS
CAROLINE R. HEIL
KATHERINE A. MURPHY
SARA R. VIZITHUM
C. SCOTT MEYERS
JOHN S. BUFORD
NICOLE A. CRAWFORD
ALEXANDER ELKAN
C. ROBIN BRITT, JR.
ANN HUBBARD
KATHERINE J. CLAYTON
JENNIFER A. GALASSI
KATHLEEN A. GLEASON
JANICE L. KOPEC
SUSAN M. YOUNG

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)
W.H. HOLDERNES (1904-1965)
L.P. McLENDON (1890-1968)
KENNETH M. BRIM (1896-1974)
C.T. LEONARD, JR. (1929-1983)
CLAUDE C. PIERCE (1913-1988)
THORNTON H. BROOKS (1912-1988)
G. NEIL DANIELS (1911-1997)
HUBERT HUMPHREY (1928-2003)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 900, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

June 30, 2005

VIA OVERNIGHT MAIL AND ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

**Re: WDSU-DT, New Orleans, LA
MB Docket No. 03-15
Supplement to Replication Waiver Request**

Dear Ms. Dortch:

On behalf of New Orleans Hearst-Argyle Television, Inc. ("Hearst-Argyle"), permittee of Digital Television Station WDSU-DT, New Orleans, Louisiana, this letter shall serve as a supplement to Hearst-Argyle's "use-it-or-lose-it" replication waiver request (filed by letter dated May 10, 2005) for the purpose of providing the information requested in the Commission's June 15, 2005, Public Notice, DA 05-1636.

As certified in its Form 381 filing (FCC File No. BCERCT-20041105ABG), WDSU intends to operate its post-transition DTV station based on its allotted replication facilities. WDSU-DT is currently operating pursuant to program test authority during the pendency of its DTV license application in FCC File Number BLCDDT-20050620ADP.

Ms. Marlene H. Dortch
June 30, 2005
Page 2

A copy of Hearst-Argyle's May 10, 2005, replication waiver request is enclosed. Also enclosed is an engineering statement from Hearst-Argyle's consulting engineer which provides further information in support of Hearst-Argyle's waiver request.

As indicated in the waiver request filed May 10, 2005, it is physically impossible for WDSU to construct its DTV top-mount replication facility at its allotted height until the top-mount NTSC antenna is removed at the end of the DTV transition. However, Hearst-Argyle is presently operating its DTV facility at maximum permissible power pursuant to program test authority and its pending license application. As further detailed in the attached engineering statement, Hearst-Argyle's current DTV operation covers approximately 93.5 percent of WDSU-DT's predicted replication/allotted population coverage.

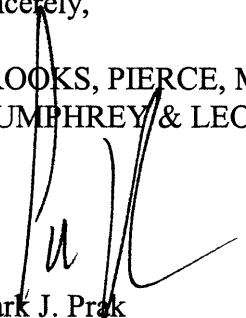
Were Hearst-Argyle required to fully comply with the July 1, 2005, deadline, Hearst-Argyle would have to expend considerable costs to move its NTSC antenna to a lower level on the tower. These costs, which would include the cost of purchasing an NTSC Channel 6 side-mount antenna, installation and reworking the transmission line, would be "sunk costs" in equipment and labor that will only be useful until the DTV transition is complete. Furthermore, because compliance with the July 1, 2005 deadline would require Hearst-Argyle to lower WDSU's NTSC antenna, compliance would result in a loss of NTSC service to approximately 100,000 viewers.

Hearst-Argyle is, of course, dedicated to digital television and will be able to complete installation of WDSU-DT's replication/allotted DTV facility and fully comply with the replication requirement after analog operation terminates.

If any questions should arise during the course of your consideration of this request, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.



Mark J. Prack
Coe W. Ramsey
*Counsel to New Orleans
Hearst-Argyle Television, Inc.*

Ms. Marlene H. Dortch
June 30, 2005
Page 3

Enclosures

cc: Shaun Maher, FCC (via email and hand delivery)
Vernese O'Bryant, FCC (via email)
Nazifa Sawez, FCC (via email)
Nai Tam, FCC (via email)

EXHIBIT A

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of NEW ORLEANS HEARST-ARGYLE TELEVISION, INC., licensee of WDSU(TV) and WDSU-DT in New Orleans, Louisiana, in support of its request for waiver of the Commission's July 1, 2005, deadline for replication of the WDSU-DT facility.

In its Pre-Election Certification (BCERCT-20041105ABG) and First Round Digital Channel Election (BFRECT-20050210AKZ), the licensee chose to operate post-transition with its FCC-allotted replication facilities on Channel 43. These parameters include an effective radiated power of 1000 kw and an antenna radiation center of 294 meters above ground. Presently, WDSU-DT operates on Channel 43 with an effective radiated power of 1000 kw and an antenna radiation center of 229 meters above ground. Analog WDSU(TV) operates on Channel 6 with an antenna radiation center of 283 meters above ground on the same tower.

The only way to comply with the deadline to replicate the WDSU-DT facility would be to remove the analog Channel 6 antenna and position the Channel 43 antenna in its place. The Channel 6 antenna would have to be moved into the present Channel 43 aperture.

Exhibit B is a map upon which the licensed and allotted service (41 dBu) contours of WDSU-DT are plotted. Based on the 2000 U.S. Census and geometric calculation, the population and area values for each of these contours are:

<u>Facility</u>	<u>Population</u>	<u>Area (sq. km)</u>
Authorized	1,686,068	23,999
Allotted	1,803,376	29,035

EXHIBIT A

The authorized WDSU-DT facility serves 93.5 percent of the population covered by the allotment facility. In addition, the authorized facility covers 82.7 percent of the allotment facility's service area.

Exhibit C is map upon which the analog licensed WDSU Grade B contour is plotted in relation to that which would obtain if the antenna were moved down into the aperture of the present WDSU-DT antenna. The area and population values for these contours are:

<u>Facility</u>	<u>Population</u>	<u>Area (sq. km)</u>
Licensed	1,917,112	32,817
At DTV Ht.	1,817,574	29,600

Compliance with the FCC's replication deadline would result in nearly 100,000 people losing their analog NBC programming, which would certainly not be in the public's interest.

Therefore, for the reasons stated above, a waiver of the Commission's July 1, 2005, DTV replication deadline is respectfully requested and believed to be justified.

The foregoing statements and attached maps, which were prepared by me, are true and correct to the best of my knowledge and belief.


KEVIN T. FISHER

June 18, 2005

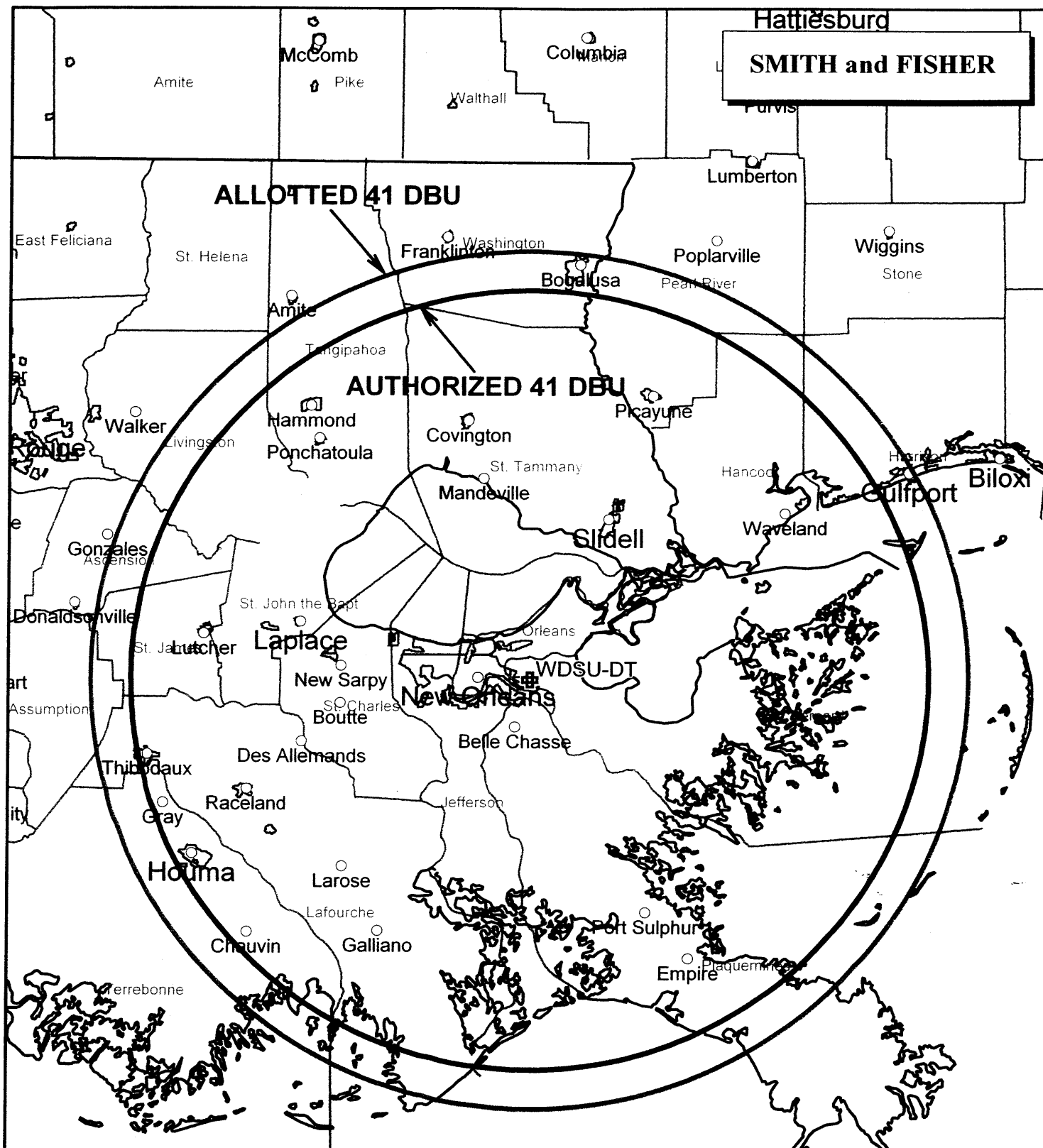
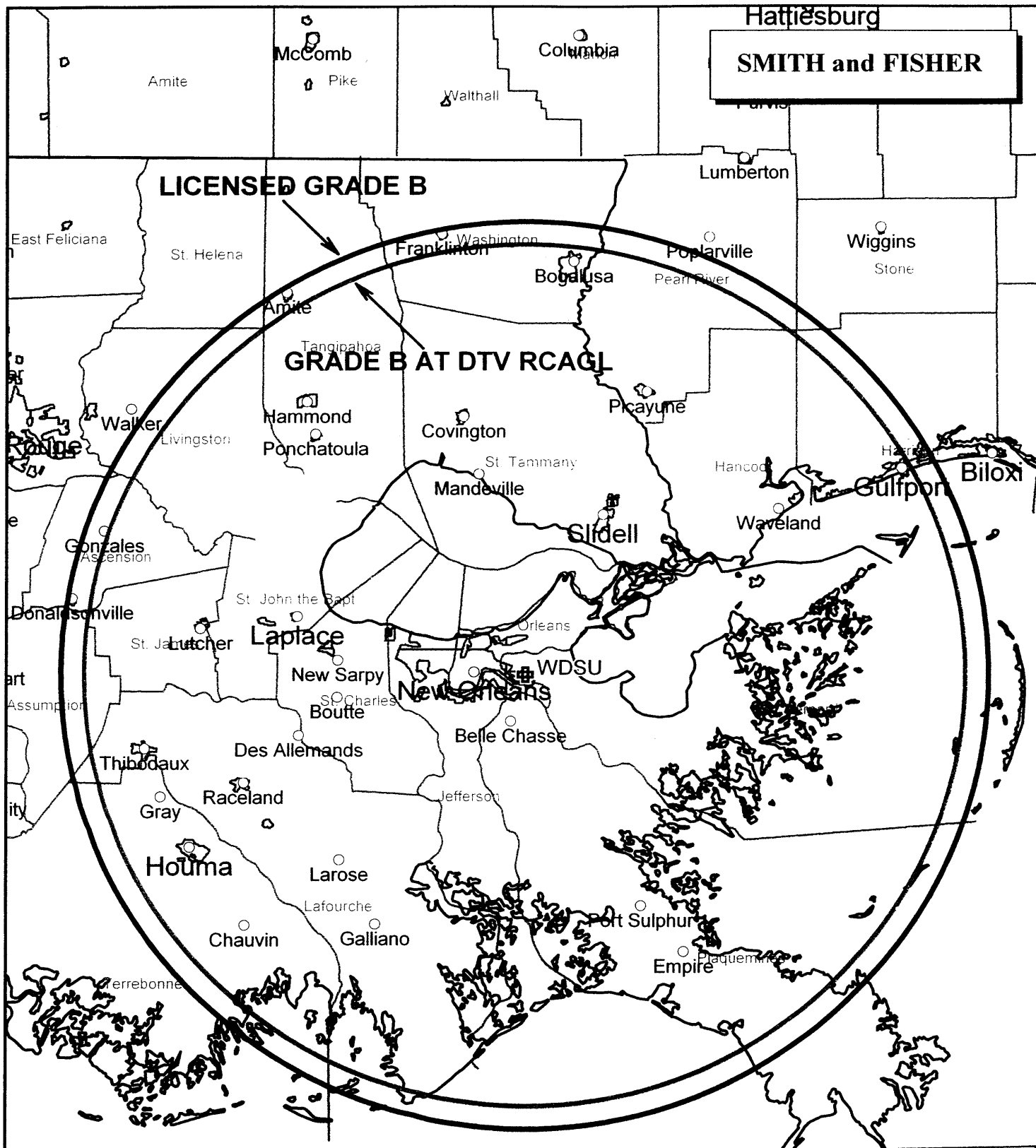


EXHIBIT B

**WDSU-DT 41 DBU CONTOURS
[AUTHORIZED AND ALLOTTED]**

CHANNEL 43 - NEW ORLEANS, LOUISIANA

SMITH AND FISHER



BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
1600 WACHOVIA CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WWW.BROOKSPIERCE.COM

L.P. McLENDON, JR.
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. MCNAIRY
EDWARD C. WINSLOW III
HOWARD L. WILLIAMS
GEORGE W. HOUSE
WILLIAM P.H. CARY
REID L. PHILLIPS
ROBERT A. SINGER
JOHN H. SMALL
RANDALL A. UNDERWOOD
S. LEIGH RODENBOUGH IV
MARK J. PRAK
JILL R. WILSON
MARC D. BISHOP
JIM W. PHILLIPS, JR.
MACK SPERLING
JEFFREY E. OLEYNIK
MARK DAVIDSON
JOHN W. ORMAND III
ROBERT J. KING III
V. RANDALL TINSLEY
S. KYLE WOOSLEY
FORREST W. CAMPBELL, JR.
MARCUS W. TRATHEN
JEAN C. BROOKS
JAMES C. ADAMS II
ALLISON M. GRIMM
ELIZABETH S. BREWINGTON
H. ARTHUR BOLICK II
J. EDWIN TURLINGTON
JOHN M. CROSS, JR.

JENNIFER K. VAN ZANT
KATHLEEN M. THORNTON
DAVID W. SAR
BRIAN J. McMILLAN
NATALIE KAY SANDERS
DAVID KUSHNER
DEREK J. ALLEN
CLINTON R. PINYAN
TERESA DELOATCH BRYANT
COE W. RAMSEY
ROBERT W. SAUNDERS
ELIZABETH V. LAFOLLETTE
GINGER S. SHIELDS
JENNIFER T. HARROD
CHARLES E. COBLE
JOHN M. DEANGELIS
KATHRYN V. PURDOM
STEPHEN G. HARTZELL
JESSICA M. MARLIES
ANDREW J. HAILE
CHARLES F. MARSHALL III
J. BENJAMIN DAVIS
CAROLINE RITCHIE HEIL
KATHERINE A. MURPHY
SARA R. VIZITHUM
C. SCOTT MEYERS
JOHN S. BUFORD
NICOLE A. CRAWFORD
ALEXANDER ELKAN
C. ROBIN BRITT, JR.
PATRICK J. JOHNSON
ANN HUBBARD
KATHERINE J. CLAYTON
JENNIFER A. GALASSI
KATHLEEN A. GLEASON
JANICE L. KOPEC
SUSAN M. YOUNG

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)
W.H. HOLDERNESS (1904-1965)
L.P. McLENDON (1890-1968)
KENNETH M. BRIM (1898-1974)
C.T. LEONARD, JR. (1929-1983)
CLAUDE C. PIERCE (1913-1988)
THORNTON H. BROOKS (1912-1988)
G. NEIL DANIELS (1911-1997)
HUBERT HUMPHREY (1928-2003)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 900, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

May 10, 2005

EXPEDITED PROCESSING REQUESTED

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

RECEIVED
MAY 10 2005
Federal Communications Commission
Office of Secretary

Re: **WDSU-DT, New Orleans, LA**
Request for Maximization/Replication Waiver

Dear Ms. Dortch:

On behalf of New Orleans Hearst-Argyle Television, Inc. ("Hearst-Argyle" or "WDSU"), the license of WDSU(TV), New Orleans, LA, this letter shall serve as Hearst-Argyle's request for waiver of the Commission's use-it-or-lose-it maximization/replication deadline of July 1, 2005. See *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, FCC 04-192 (Rel. Sept. 7, 2004) ("DTV R&O"), at ¶¶ 83, 87.

As certified in its Form 381 filing (FCC File No. BCERCT-20041105ABG), WDSU intends to operate its post-transition DTV station based on its allotted replication facilities. The parameters of WDSU's allotted DTV replication facilities assume a top-mount DTV antenna and are as follows:

<i>Replication Allotment</i>		
Channel	ERP	HAAT
43	1000 kW	283 meters

WDSU is presently operating its DTV facility pursuant to its DTV STA in FCC File No. BDSTA-20021008ACH using a side-mount DTV antenna in accordance with the following parameters:

<i>Current STA Operation</i>		
Channel	ERP	HAAT
43	445 kW	230 meters

Further, prior to July 1, 2005, WDSU intends to commence program test operation and file for a license to cover its DTV construction permit in FCC File No. BMPCDT-20010130ABB, pursuant to which WDSU will operate with 1000 kW ERP at 230 meters HAAT.

WDSU's allotted DTV replication facility is based on its licensed NTSC Channel 6 facility in FCC File No. BMLCT-20031218ACA pursuant to which the NTSC antenna is top mounted at 283 meters HAAT. Because Hearst-Argyle's NTSC antenna will need to remain in operation during the DTV transition, it is physically impossible for WDSU to construct its DTV top-mount replication facility at 283 meters until the top-mount NTSC antenna is removed. Hearst-Argyle notified the Commission that it would be filing the instant waiver request in connection with its FCC Form 381 filing.

In the *DTV R&O*, the Commission stated that it "will establish a limited waiver process and grant extensions of the applicable replication or maximization interference protection deadline on a six-month basis if good cause is shown." *DTV R&O*, at ¶ 87. Stations "that cannot build out for reasons beyond their control" may seek a waiver. *DTV R&O*, at ¶ 83. The instant case clearly presents a circumstance beyond Hearst-Argyle's control, as it is physically impossible to top mount WDSU-DT's antenna until the end of the DTV transition at which time WDSU's top-mount NTSC antenna may be removed.

Grant of the instant waiver request would not undermine the digital transition and unwavering enforcement of the use-it-or-lose-it maximization/replication deadline against WDSU would be inequitable and contrary to reason and the public interest. Absent a waiver, Hearst-Argyle would be required to remove and relocate its NTSC antenna, which would likely require Hearst-

Marlene H. Dortch
May 10, 2005
Page 3

Argyle to purchase a side-mount antenna for its temporary NTSC operation. Not only would such modification to WDSU's NTSC facility involve a sunk cost in equipment that will only be useful until the DTV transition is complete, but such modification would likely involve a reduction of WDSU's NTSC height and power, and thus, result in a loss of NTSC service to some of WDSU's viewers.

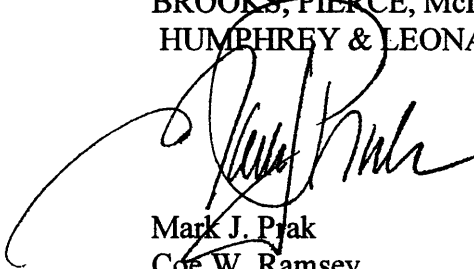
Though it is physically impossible for WDSU to operate its DTV station at its allotted HAAT until the DTV transition is complete, Hearst-Argyle is, of course, dedicated to digital television and plans to commence operation of its facility at maximum permissible power from its currently authorized, albeit lower, HAAT.

For the foregoing reasons, Hearst-Argyle believes that a waiver of the Commission's use-it-or-lose-it maximization/replication deadline is warranted in this case and is necessary or otherwise in the public interest.

If any questions should arise during the course of your consideration of this request, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

A handwritten signature in black ink, appearing to read 'Mark J. Pyak', is written over the typed name and title.

Mark J. Pyak
Coe W. Ramsey
*Counsel to New Orleans
Hearst-Argyle Television, Inc.*

cc: Clay Pendarvis, FCC (via email)
Nazifa Sawez, FCC (via hand delivery)